

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**MINISTER CLEVELAND WINSTON  
KILGORE-BEY,**

Petitioner,

**v.**

**CIVIL ACTION NO.: 3:19-CV-197  
(GROH)**

**WILLAIM BARR, U.S. Attorney General,  
and WARDEN HUGGINS,**

Respondents.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. ECF No. 7. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R on December 3, 2019. Therein, Magistrate Judge Trumble recommends that the Petitioner’s § 2241 petition [ECF No. 1] be denied and dismissed without prejudice.

**I. BACKGROUND**

Upon review of the record, the Court finds that the facts as explained in the R&R accurately and succinctly describe the circumstances underlying the Petitioner’s claims. The Court incorporates those facts herein. However, the Court has briefly outlined the most relevant facts below.

On November 25, 2019, the pro se Petitioner filed a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. ECF No. 1. Therein, the Petitioner alleges he is in “unlawful custody” being “held through [the] color of authority against a minister foreign

to this jurisdiction.” Id. at 1. The Petitioner requests he be immediately released from custody.

## **II. LEGAL STANDARDS**

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble’s R&R were due within fourteen plus three days of the Petitioner being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Petitioner by certified mail on December 3, 2019. ECF No. 7. The Petitioner accepted service on December 9, 2019. ECF No. 9. The Petitioner filed his objections to Magistrate Judge Trumble’s R&R on December 16, 2019. ECF No. 10. Having timely filed his objections, this Court will review the Petitioner’s objections to the R&R *de novo*. The Court will review the remainder of the R&R for clear error.

## **III. DISCUSSION**

In his R&R, Magistrate Judge Trumble recommends the Petitioner’s § 2241 petition be denied and dismissed without prejudice because the Court lacks subject matter

jurisdiction over his claims. Specifically, Magistrate Judge Trumble found the Petitioner has failed to satisfy § 2255's savings clause because he does not meet all four prongs of the test set forth in United States v. Wheeler, 886 F.3d 415, 428 (4th Cir. 2018).

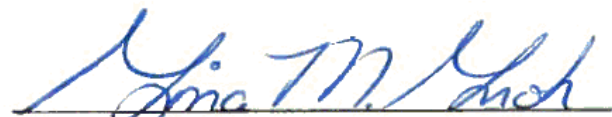
In the Petitioner's objections, he objects to Magistrate Judge Trumble's R&R in its entirety. ECF No. 10 at 2. The Petitioner does not set forth any factual or legal argument to support a finding against Magistrate Judge Trumble's R&R. The local rules require the Petitioner to set forth specific written objections, identifying the portions of the R&R to which his objection is made, and the basis of such objection. The Petitioner has failed to do so here. Accordingly, the Petitioner's general objection to the entirety of Magistrate Judge Trumble's R&R is hereby **OVERRULED**.

#### IV. CONCLUSION

Accordingly, upon careful review of the R&R and the Petitioner's objections, it is the opinion of this Court that Magistrate Judge Trumble's R&R [ECF No. 7] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. The Petitioner's § 2241 petition [ECF No. 1] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**. The Petitioner's sealed motion for leave to proceed in forma pauperis [ECF No. 2], motion for expedited response [ECF No. 3] and motion for leave to supplement pleadings and expedited adjudication for emergency ruling [ECF No. 13] are hereby **TERMINATED** as **MOOT**.

The Clerk is **DIRECTED** to strike this matter from the Court's active docket. The Clerk is further **DIRECTED** to mail a copy of this Order to the pro se Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** April 13, 2020

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE